

as it does in this case, that a number of these judgment creditors are non-residents of the state.

The rights of these creditors are, unquestionably, not affected by the discharge of Kerr under the insolvent laws of Maryland. Independently of the case of *Cook vs. Moffatt et al.*, 5 *Howard Rep.*, 295, the last decision, it is believed, of the Supreme Court upon the subject, the Court of Appeals of this state, in the case of *Frey vs. Kirk*, 4 *Gill & Johns.*, 509, have put the question at rest. In remarking upon the case of *Ogden vs. Saunders*, 12 *Wheaton*, 213, they say, that the ultimate opinion of Mr. Justice Johnson, which established the law upon the subject, settled among others, the principle, "that such laws, (speaking of the state insolvent laws,) although constitutional in their action upon the rights of their own citizens, are unconstitutional, when they affect the rights of citizens of other states."

It is said, however, that though the state insolvent laws are unconstitutional, so far as they operate upon the *rights* of the citizens of other states, that yet the decisions of the Supreme Court of the United States, concede to the states, the power to pass laws, affecting and regulating the *remedies* which may be resorted to, for the enforcement of those rights. And it is urged, that our state insolvent system, which, as expounded by the Court of Appeals in the case of *Alexander and Ghiselin*, places the whole property of the insolvent in the hands of the trustee, to be administered by him, is a mere regulation of the remedy, and so far constitutional and binding upon the citizens of other states. And that, consequently, the property must be delivered to the trustee, who will distribute it among the creditors according to their respective rights.

This view of the subject is in direct conflict with what was said by the learned judge, who delivered the opinion of the Court of Appeals in the case of *Larabee vs. Talbot*, decided at December term, 1847, which was, that "it was now settled by the adjudications of the Supreme Court, that a discharge obtained under the insolvent laws of Maryland, could not affect the right of foreign creditors to obtain against the insolvent in the Maryland courts an absolute and unqualified judgment, and